

REMARKS

Claims 1-29 are pending in this application.

RESTRICTION REQUIREMENT AND ELECTION OF SPECIES

As recited below, the Office Action imposed a restriction requirement that restricted the claims into three groups.

Group I (claims 1-16 and 25-29) - drawn to a composition comprising a cell and hyaluronan in the absence of serum.

Group II (claims 17-22) - drawn to a method of making a cell-containing storage solution comprising glucosaminoglycan in the absence of serum.

Group III (claims 23 and 24) - drawn to a method of using the composition comprising a cell and glucosaminoglycan.

Applicants respectfully submit that Groups I - III should not be restricted.

With respect to the restriction of Groups I - III, the Office Action does not comply with M.P.E.P. § 803, which provides:

If the search and examination of an application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

As required by M.P.E.P. § 803, the Office Action must demonstrate: (1) that there are independent and distinct inventions (35 U.S.C. § 121); and (2) that the search and examination of the entire application cannot be made without serious burden.

Applicants respectfully submit that the currently pending claims of Groups I - III are related to a single general inventive concept – a composition or solution comprising glucosaminoglycan in the absence of serum. Therefore, the search and examination of the currently pending claims of Groups I - III do not impose upon the Examiner a serious burden. Applicants respectfully submit that a search directed to the composition of Group I would identify art relevant to the other groups. The concurrent examination of Groups I - III will not expand the Examiner's search, and can be done without the imposition of a serious burden upon the Examiner.

For at least these reasons, Applicants respectfully request that the Examiner amend the Office Action, and examine the currently pending claims of Groups I - III. In order to facilitate

the prosecution of this application and to comply with 37 C.F.R. § 1.499, Applicants elect with traverse Group I (Claims 1-16 and 25-29) for prosecution. Applicants reserve the option of prosecuting the restricted claims at another time or requesting rejoinder of the restricted claims once allowable claims are found.

With respect to Claims 6-9 and 13, each of which is in Group I, the Office Action imposed a species election regarding the type of cells. The Office Action stated that the “application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.” (Office Action, p. 3). The Office Action stated that Claim 1 is generic. As required by the Office Action, Applicants elect “non-corneal cells” as recited in Claim 7.

CONCLUSION

The foregoing is a complete response to the Restriction Requirement mailed May 24, 2010. Applicant respectfully submits that at least Claims 1-29 are patentable. Early and favorable consideration is solicited. Applicant files this Response solely to facilitate prosecution. As such, Applicant reserves the right to pursue claims of broader or similar scope as originally filed in a continuation application or other application after allowance of the present application. If the Examiner believes there are other issues that can be resolved by a telephone interview, or that there are informalities that remain in the application that may be corrected by the Examiner’s amendment, a telephone call to the undersigned attorney at (678) 420-9300 is respectfully solicited.

Applicant believes that no fee is due; however, Applicant authorizes the Commissioner to charge to Deposit Account No. 14-0629 any additional fees that may be required.

Respectfully submitted,
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